

Remarks

This is in response to the PTO action of July 25, 2007. The applicant would like to thank the Examiner for the thought and time put into the office action. In the office action the Examiner indicated that the applicant must affirm the oral election made on July 9, 2007, by Attorney Peter Jansson in the office action response. Applicant has affirmed its election below and has also addressed the Examiners claim rejections as presented in the office action.

Election/Restrictions

On July 9, 2007, Attorney Peter Jansson reached the Examiner and orally elected the apparatus claims (claims 20 and 40-53) with traverse. Claims 4 and 32-39 were withdrawn from further consideration by the Examiner. Applicant is now affirming the election of the apparatus claims (claims 20 and 40-53).

In the office action, the Examiner indicated that the present application contains two distinct inventions, namely, the method of claims 4 and 32-39 and the apparatus of claims 20 and 40-53. The applicant respectfully requests that any requirement for restriction be reconsidered and withdrawn.

The applicant respectfully traverses the restriction requirement and requests reconsideration and withdrawal of the requirement. Independent claims 4 and 32 (and dependent claims 33-39) are directed to a method of purifying air using a ultraviolet lamp. Claims 4 and 32 are as follows:

4. A method comprising:
 - providing a lamp for emitting ozone-producing radiation;
 - providing an enclosure for covering the lamp, the enclosure having a mechanically-adjustable opening for changing an amount of the radiation being emitted from the enclosure; and
 - providing an ozone-creating passageway for receiving the radiation being emitted from the enclosure.

32. A method, comprising:

- providing an ultraviolet (UV) ozone-generating lamp secured to and extending from a plate;
- providing a first enclosure and a second enclosure, the enclosures being coaxial and cylindrical, the first enclosure being fixed to the plate and surrounding the second enclosure, the second enclosure being rotatable;
- providing openings in respective cylinder sides of the first and second enclosures; wherein the enclosures fully enclose the lamp except for any overlap of the openings, and wherein an amount of overlap of the openings is varied by rotation of the second enclosure, such amount of overlap corresponding to a relative amount of ozone produced by the lamp when energized.

Claims 4 and 32 (and dependent claims 33-39as *claimed*) contradict the Examiner's position that the apparatus as claimed can be used to practice another and materially different process such as one with a step of providing an ozone-creating reservoir/tank instead of a passageway or a process in which the ozone-generating radiation is mixed with oxygen.

Using the apparatus with a materially different process, such as those listed by the Examiner above, would not provide the same air purification results. If the process were to use an ozone-creating reservoir/tank instead of a passageway or a process in which the ozone-generating radiation is mixed with oxygen the process would be unnecessarily complicated and the goal of providing an optimized, yet simple and inexpensive system would be compromised. Applicants' apparatus does not allow air to flow through the chamber. Therefore, the apparatus cannot be practiced with a materially different process. Since the applicant has proven that the claimed apparatus cannot be used to practice another and materially different process as asserted by the Examiner, it would be appropriate for the Examiner to withdraw the requirement.

Subject to the above traverse of the restriction requirement, the applicant makes a provisional election to select the apparatus invention of claims 20 and 40-53 for further prosecution of this application.

Claim Rejections

In the office action the Examiner rejected claims 48, 51 and 53 under 35 USC §112 based on insufficient antecedent basis. Claims 48, 51 and 53 have been canceled and new claims have been added.

The Examiner also rejected claim 20 under 35 USC §102(b) as being anticipated by *McMilan, Jr.*, (Patent No. 3,752,748) or *Nelson* (20020098109). Applicant has amended claim 20 to overcome this rejection and applicant now believes the claim is in condition for allowance.

Claims 40-47, 49-50 and 52-53 were rejected under 35 USC §103(a) as being unpatentable over *McMilan, Jr.*, (Patent No. 3,752,748) in view of *Nelson* (20020098109). Claims 48 and 51 were rejected under 35 USC §103(a) as being unpatentable over *McMilan, Jr.*, (Patent No. 3,752,748) in view of *Nelson* (20020098109) as applied to claims 40 and 49, and further in view of *Na* (Patent No. 5,755,103). Claims 40-53 have been canceled and new claims 54-59 have been added.

Despite the fact that applicant has canceled claims 40-53 and added new claims 54-59, applicant would like to draw the Examiner's attention to the inherent differences in the applicants' apparatus and the cited prior art.

The apparatus disclosed in *McMilan, Jr.*, (Patent No. 3,752,748) is used as testing equipment in a laboratory. The apparatus in *Nelson* (20020098109) is used to produce purified air for removing contaminants from liquids. Neither unit is able to produce ozone in a residential air duct for the purpose of air purification and/or odor removal.

The apparatus in *McMilan* and the apparatus in *Nelson* adjust the amount of gas that flows past a lamp mounted in a chamber. Applicants' apparatus adjusts a beam of light in an HVAC duct; not the flow of air or gas as in *McMilan* and *Nelson*. Applicants' apparatus does not allow air to flow through a chamber, rather it utilizes a shutter which allows light from the lamp to shine into the HVAC duct work. The shape of the shutter is novel in that it allows precise amounts of light to shine out into the HVAC duct work as the adjustment knob is adjusted.

The new claims further define the inherent differences between applicants' invention and the cited prior art. Applicant believes the claims are now in condition for allowance. For all the above reasons, the applicant respectfully requests consideration and allowance of the amended and new

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claims. Applicant asks the examiner to telephone the undersigned attorney to resolve any issues and expedite allowance of this case.

Pursuant to the Examiner's request in the office action, the Applicant has filed with this response a Power of Attorney form which includes the inventor's address.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 10-0270.

Respectfully submitted,


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